

STATE OF MICHIGAN  
COURT OF APPEALS

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GABRIEL S. ORZAME, M.D.,

Plaintiff-Appellant,

v

PAUL A. TAGLIA, L.A. WHITE, and TAGLIA,  
FETTE, DUNKE, PASSARO & KAHNE, P.C.,

Defendants-Appellees.

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UNPUBLISHED

August 9, 2005

No. 253260

Berrien Circuit Court

LC No. 01-003514-NI

Before: Whitbeck, C.J., and Sawyer and Fitzgerald, JJ.

PER CURIAM.

Plaintiff Gabriel Orzame appeals as of right from the circuit court's order granting summary disposition to defendants Paul Taglia, L.A. White, and their law firm, and dismissing Orzame's complaint for legal malpractice. We affirm. We decide this appeal without oral argument pursuant to MCR 7.214(E).

I. Basic Facts And Procedural History

Orzame is a physician who, on the advice of counsel, pleaded no contest to violating MCL 750.492a by recklessly placing into a patient's medical record inaccurate or misleading information regarding the diagnosis, treatment, or cause of a patient's condition. Orzame's counsel told him that it was possible his medical license would be revoked, but assured him that it would not be revoked because he would plead guilty only to a misdemeanor. However, as a consequence of that plea, the Board of Medicine revoked Orzame's medical license, as mandated under MCL 333.16221 and MCL 333.16226. Orzame sued his defense attorneys and their law firm for malpractice, claiming that they had failed to adequately advise him that his plea would result in the mandatory revocation of medical license.

II. Summary Disposition

A. Standard Of Review

We review de novo the trial court's decision on a motion for summary disposition.<sup>1</sup> Whether the doctrine of collateral estoppel applies is a question of law that we also review de novo.<sup>2</sup>

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<sup>1</sup> *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

<sup>2</sup> *McMichael v McMichael*, 217 Mich App 723, 727; 552 NW2d 688 (1996).

## B. Collateral Estoppel

The trial court properly granted defendants' motion to dismiss Orzame's claim of legal malpractice as a matter of collateral estoppel. Orzame's criminal case established that he did not receive ineffective assistance of counsel, even though his defense attorneys incorrectly advised him that his medical license would not be revoked. The revocation was a collateral consequence of his plea and did not affect the determination whether Orzame entered the plea knowingly.<sup>3</sup> After determination of an issue in a criminal proceeding, collateral estoppel may preclude the redetermination of the issue in a civil proceeding.<sup>4</sup> Further, "the legal standards for ineffective assistance of counsel in criminal proceedings and for legal malpractice in civil proceedings are equivalent for purposes of application of the doctrine of collateral estoppel."<sup>5</sup> Moreover, "once a full and fair determination has been made that a plaintiff received the effective assistance of counsel, the plaintiff has had his day in court and is now collaterally estopped from again raising the same issue in the form of a claim of legal malpractice."<sup>6</sup> Thus, the finding in Orzame's criminal trial that he did not receive ineffective assistance of counsel barred his subsequent civil claim of legal malpractice.

Affirmed.

/s/ William C. Whitbeck

/s/ David H. Sawyer

/s/ E. Thomas Fitzgerald

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<sup>3</sup> *People v Davidovich*, 238 Mich App 422, 428; 606 NW2d 387 (1999).

<sup>4</sup> *Barrow v Pritchard*, 235 Mich App 478, 481; 597 NW2d 853 (1999).

<sup>5</sup> *Id.* at 483-484.

<sup>6</sup> *Id.*